

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jacob Hugo Puchalski,

Case No. 20-CV-973 (ECT/TNL)

Petitioner,

v.

REPORT & RECOMMENDATION

Jacob D. McLellan, District Supervisor;
D.O.C.; Judge Kathleen A. Mottl;
Elizabeth M. Larson, Prosecuting
Attorney; Richard R. Hermes, Public
Defender; Ryan Busch, Probation Officer;
and Wright County Employees,

Respondents.

Petitioner Jacob Hugo Puchalski commenced this action by filing a petition for a writ of habeas corpus attacking the legality of the revocation of his supervised release in state court. *See* ECF No. 1. In an order dated May 1, 2020, this Court noted two likely hurdles to Puchalski attaining habeas corpus relief. *See* ECF No. 7. First, under 28 U.S.C. § 2254(b), a federal habeas corpus petitioner must first exhaust all available state-court remedies. This Court could not find any indication that Puchalski challenged the revocation of his conditional release in the state appellate courts. Second, Puchalski's term of imprisonment resulting from the revocation of his supervised release appears to have concluded shortly after he filed his habeas petition. If so, then his petition became moot at the time of his release. *See Spencer v. Kemna*, 523 U.S. 1, 7-16 (1998). Accordingly, Puchalski was ordered to show cause within 30 days why the petition should not be dismissed without prejudice on account of mootness and failure to exhaust.

The deadline for Puchalski's response has now passed, and Puchalski has not answered this Court's order to show cause. Accordingly, it is now recommended that this matter be dismissed without prejudice on account of mootness or, alternatively, for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This matter be **DISMISSED WITHOUT PREJUDICE** due to mootness or, alternatively, for failure to prosecute.
2. The pending motions of petitioner Jacob Hugo Puchalski [ECF Nos. 2 & 3] be **DENIED AS MOOT**.

Date: June 15, 2020

s/ Tony N. Leung
 Tony N. Leung
 United States Magistrate Judge
 District of Minnesota

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NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).